



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20230
www.uspto.gov

Paper No. 14

Derek J. Westberg
Law Offices of Derek J. Westberg
Two North Second St., Suite 1390
San Jose, CA 95113

JUL 25 2003

In re Application of
Charles Guthrie et al.
Application No.: 09/818,092
Filing Date: March 26, 2001
Attorney Docket No.: 2102330-991110

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on June 10, 2003. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action mailed on June 17, 2002. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner asserts that a response to the Office action of June 17, 2002 was timely submitted to the United States Patent and Trademark Office (USPTO). To support this assertion, petitioner has submitted a copy of the response (an amendment, a petition for a three-month extension of time, new formal drawings, an information disclosure statement (IDS), a revocation of power of attorney, and a new power of attorney) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the USPTO on December 17, 2002.

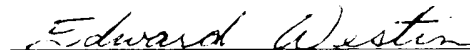
A review of the application file record reveals that the above-identified response having been acknowledged as being received in the USPTO on December 17, 2002 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence that the items were received by the Office."

on December 17, 2002. Accordingly, it is concluded that the response was timely received, and lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 22, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on June 10, 2003 is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for appropriate action in due course.



Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components